

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JERMAINE HAMPTON,

Plaintiff,

V.

STATE OF NEVADA, et al.,

Defendants.

Case No. 2:20-cv-00578-APG-DJA

ORDER

11 This is a civil rights suit arising out of Defendants’—the State of Nevada, City of Las Vegas,
12 Detective Todd Edwards, Officer David Lunt, District Attorney Sarah Overly, and District Attorney
13 Stephanie Getter—alleged violations of the Plaintiff’s Fourth Fifth, Eighth, and Fourteenth
14 Amendment rights. Plaintiff sues Defendants for damages and injunctive relief, claiming that they
15 are responsible for an improper search, seizure, and arrest which led to Plaintiff’s incarceration.
16 Plaintiff moves to be present at the deposition of his ex-wife and to have his own deposition occur
17 on the same day (ECF No. 82), arguing that it is impossible for him to attend via zoom and that
18 having the depositions on the same day would be convenient. Defendants Detective Todd Edwards
19 and Officer David Lunt (the “LVMPD Defendants”) move to extend discovery (ECF No. 85),
20 arguing that they are awaiting leave to depose Plaintiff and have yet to receive certain discovery
21 responses from him. Because the LVMPD Defendants have vacated the deposition of Plaintiff’s
22 ex-wife, the Court denies Plaintiff’s motion to be present as moot. Because the Court finds that the
23 LVMPD Defendants have demonstrated good cause to extend the discovery deadlines, it grants
24 their motion in part and extends the deadlines 60 days from the date of this order. The Court finds
25 these matters properly resolved without a hearing. LR 78-1.

I. Background.

After the LVMPD Defendants noticed Plaintiff's ex-wife's deposition to take place at their counsel's office, Plaintiff moved to have the deposition take place at the prison and to have his own

1 deposition take place on the same day (ECF No. 82). Plaintiff explained that attending his ex-
2 wife's deposition via zoom would be "impossible," and that having his deposition on the same day
3 would more "convenien[t] to object and cross-examine." The LVMPD Defendants respond (ECF
4 No. 83) that they had cancelled Plaintiff's ex-wife's deposition, "with one reason...being Plaintiff's
5 outstanding Motion claiming that he cannot appear by video..." and that Plaintiff failed to send a
6 meet-and-confer letter before filing his motion. Questioning Plaintiff's assertion that attending via
7 video would be "impossible," counsel for the LVMPD Defendants contacted the prison. A prison
8 official responded that "the inmate in question would only be unavailable if he is refusing to attend
9 and participate in the conference. We have the entire day of Friday the 21st available for a video
10 conference." The LVMPD Defendants also ask the court to deny Plaintiff's request for his own
11 deposition to take place at the prison. Plaintiff did not file a reply.

12 The LVMPD Defendants then filed a motion to extend discovery (ECF No. 85) for 60 days,
13 explaining that they had received no responses to their letter asking Plaintiff to meet and confer
14 about an extension. The primary reason for the LVMPD Defendants' motion was their pending
15 motion to take Plaintiff's deposition—a motion which is required under Federal Rule of Civil
16 Procedure 30(a)(2)(B)—which this Court later granted. Plaintiff objected (ECF No 86) and argued
17 that the LVMPD Defendants have not been diligent in scheduling Plaintiff's deposition but were
18 using it as a reason to extend. The LVMPD Defendants replied (ECF No. 88), arguing that they
19 have been unable to depose Plaintiff due to his multiple motions to amend his complaint—which
20 they assert created a "moving target" for discovery—and the pending motion for leave to depose
21 Plaintiff.

22 **II. Discussion.**

23 **A. *The Court denies Plaintiff's motion to be present at his ex-wife's deposition and***
24 ***to have his deposition take place on the same day.***

25 Plaintiff's motion is both moot and unsupported. Local Rule 26-6 requires parties to make
26 good faith efforts to meet and confer before filing discovery motions. LR 26-6. While an inmate
27 might not be able to meet personally with opposing counsel, inmates are still required to attempt to
28 resolve any discovery dispute either by a telephone call or a written communication in which the

1 inmate sincerely attempts to resolve the dispute. *See Henrickson v. Nevada*, No. 2:20-cv-01014-
2 APG-EJY, 2020 WL 8483834, at *3 (D. Nev. Dec. 28, 2020). While *pro se* plaintiffs are held to
3 less stringent standards, they must still follow the same rules as other litigants. *See Haines v.*
4 *Kerner*, 404 U.S. 519, 520 (1972) (holding that *pro se* plaintiffs are held to a less stringent standard
5 than those who are represented by counsel); *see Jacobsen v. Filler*, 790 F.2d 1362, 1364-65 (9th
6 Cir. 1986) (holding that *pro se* parties are not excused from following the rules and orders of the
7 court).

8 Here, the Court denies Plaintiff's motion to be at his ex-wife's deposition and to have that
9 deposition on the same day as his own as moot because the LVMPD Defendants have vacated
10 Plaintiff's ex-wife's deposition. Plaintiff has also failed to comply with the local rules requiring
11 meet-and-confer efforts before filing discovery motions. In the event Plaintiff has future discovery
12 disputes, the Court reminds him of the meet-and-confer requirement. To the extent Plaintiff moves
13 to have his own deposition take place at the prison and not over zoom, Plaintiff has not adequately
14 explained why attending via zoom is "impossible." This information is particularly lacking in light
15 of the prison official's email that video conferencing is available. Plaintiff's motion (ECF No. 82)
16 is thus denied.

17 ***B. The Court grants the LVMPD Defendants' motion to extend discovery in part.***

18 The Court finds good cause to grant the LVMPD Defendants' motion to extend discovery
19 and extends discovery for 60 days from the date of this Order. Under Local Rule IA 6-1, a motion
20 to extend time must state the reasons for the extension. LR IA 6-1. Motions for extensions made
21 within 21 days of the subject deadline must be supported by good cause. LR 26-3. Motions for
22 extension must include a statement specifying the discovery completed, a description of discovery
23 remaining, the reasons why the deadline was not satisfied, and a proposed schedule for completing
24 remaining discovery. *Id.* The court has broad discretion to control discovery. *See, e.g., Little v.*
25 *City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988).

26 Here, the Court finds good cause to grant the LVMPD Defendants' motion to extend
27 discovery. The LVMPD Defendants have met each of the requirements for extending discovery.
28 The LVMPD Defendants demonstrate good cause because, at the time they filed their motion to

1 extend, their motion for leave to depose Plaintiff was still pending and Plaintiff's initial disclosures
2 were outstanding. The Court is unconvinced by Plaintiff's argument that the LVMPD Defendants
3 have not been diligent in scheduling his deposition. To the contrary, the LVMPD Defendants have
4 shown that Plaintiff's initial disclosures were outstanding, that Plaintiff has filed multiple motions
5 to amend his complaint—creating a moving target for discovery—and that their motion for leave
6 to depose Plaintiff was still pending. The LVMPD Defendants thus show good cause to extend
7 discovery deadlines. The LVMPD Defendants have also met each of the other requirements for
8 moving to extend discovery. They have specified the discovery already completed, the discovery
9 remaining, and have provided a proposed discovery plan. The Court thus grants the LVMPD
10 Defendants' motion (ECF No. 85) in part, with the exception of the proposed discovery plan
11 because the discovery cut-off deadline has passed. The Court thus orders that the discovery
12 deadlines will extend 60 days from the date of this Order.

13 **IT IS THEREFORE ORDERED** that Plaintiff's motion to be present at depositions [ECF
14 No. 82] is **denied**.

15 **IT IS FURTHER ORDERED** that the LVMPD Defendants' motion to extend discovery
16 deadlines [ECF No. 85] is **granted** in part.

17 **IT IS FURTHER ORDERED** that the following deadlines shall control discovery:

18 Discovery Cut-Off Monday, September 27, 2021

19 Dispositive Motions Wednesday, October 27, 2021

20 Proposed Joint Pretrial Order Monday, November 29, 2021¹

22 DATED: July 29, 2021



23
24 DANIEL J. ALBREGTS
25 UNITED STATES MAGISTRATE JUDGE
26
27

28 ¹ Moved to the next Monday to accommodate the Thanksgiving holiday.